

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 14 March 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	Basement And Ground Floor, 60 Berwick Street, London, W1F 8SU,		
Proposal	Installation of openable bi-folding windows in the shopfront (site includes 61 Berwick Street).		
Agent	Rolfe Judd Planning Ltd		
On behalf of	Salt Yard Group Ltd		
Registered Number	16/09630/FULL	Date amended/ completed	7 October 2016
Date Application Received	7 October 2016		
Historic Building Grade	Unlisted		
Conservation Area	Soho		

1. RECOMMENDATION

Refuse permission – amenity grounds

2. SUMMARY

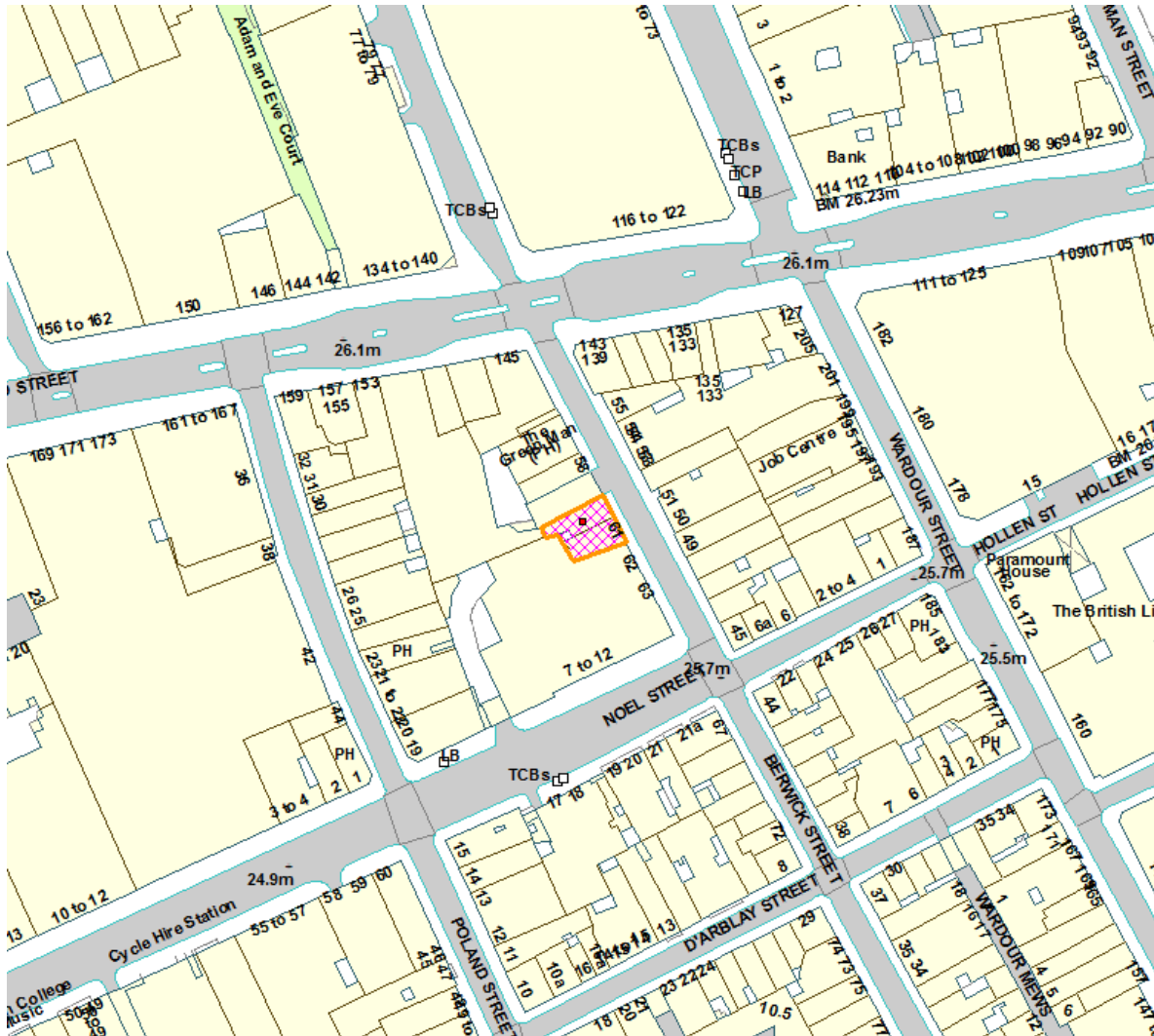
The application relates to a ground floor and basement floor restaurant at 60-61 Berwick Street. Planning permission is sought for the installation of openable bi-folding windows to the shopfront.

The key issues for consideration are:

- The impact of the proposed openable windows upon the amenities of neighbouring residential properties.
- The impact of the proposal upon the appearance of the existing building and on the character and appearance of this part of the conservation area.

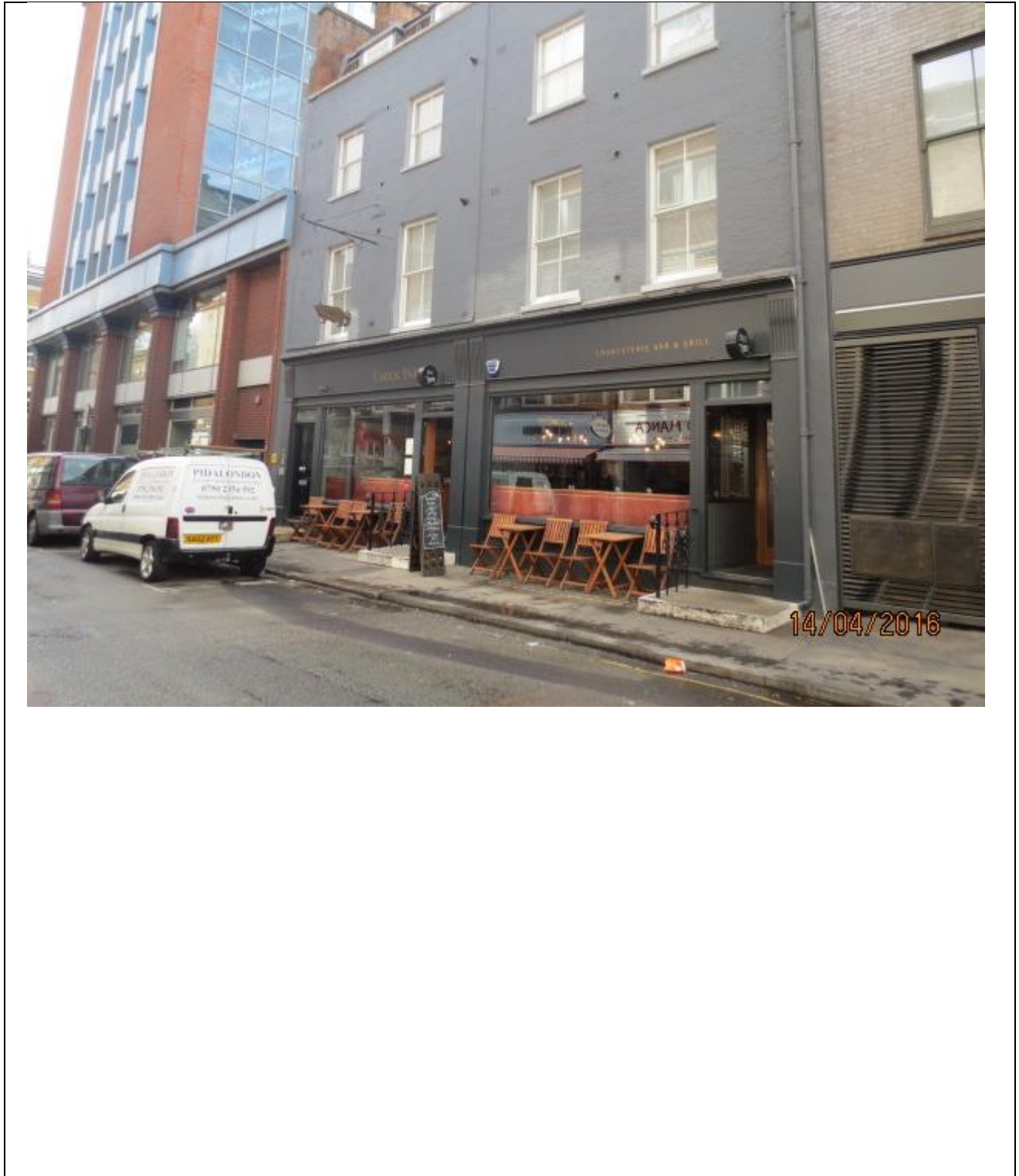
For the reasons set out in the main body of the report, and subject to appropriate conditions, the proposals are considered to comply with relevant UDP and City Plan policies and the application is recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

SOHO SOCIETY:

Objection on the grounds of noise nuisance from openable windows.

ENVIRONMENTAL HEALTH:

No objection.

HIGHWAYS PLANNING MANAGER:

No objection.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED:

No. Consulted: 40

Total No. of replies: 0

No. of objections: 0

No. in support: 1

Letter of support from the landlord of the property on the following grounds:

- they proactively manage disputes between commercial and residential tenants
- the operator of the restaurant has worked with the landlord for 10 years and has not caused problems
- there are existing mitigation measures in the form of secondary glazing on upper floors and enhancements to flooring
- there have been no complaints from residents to the restaurant use

PRESS ADVERTISEMENT / SITE NOTICE:

Yes.

6. BACKGROUND INFORMATION

6.1 The Application Site

The application site is 60-61 Berwick Street which is an unlisted building located in the Soho Conservation Area. The site is designated within the Core Central Activities Zone and the West End Stress Area. The application site relates to the ground floor and basement of the building which is lawfully in use as a restaurant (Class A3). The upper floors of the building have lawful use as residential (Class C3) or office (Class B1) accommodation. Council tax records show the upper floors are in use as residential flats (Class C3).

This area of Berwick Street is characterised by a mix of retail and restaurant uses at ground floor with residential and office accommodation on the upper floors.

6.2 Recent Relevant History

In 2013 planning permission was granted (RN: 12/06986/FULL) for the use of the ground floor and basement of 60-61 Berwick Street for either restaurant (Class A3) and/or retail (Class A1) purposes, and for the use of the upper floors as offices (Class B1).

In 2013, planning permission was also granted for the dual/alternative use of the first to second floors as either five residential flats (Class C3) or offices (Class B1).

7. THE PROPOSAL

The application is for the installation of openable bi-folding windows to the shopfront above a fixed stallriser. The application originally proposed that the windows would be open between the hours of 08:00 to 23:00. The applicant has revised the proposed terminal hour to 19:00.

8. DETAILED CONSIDERATIONS

8.1 Townscape and Design

The design implications of this scheme centre around the impact of the bi-folding doors inserted into the existing shopfront. The existing shopfront is timber and of a traditional appearance with no subdivision to the main glass window. Fully openable shopfronts can be problematic in design terms giving the appearance of a void in the street scene but this scheme retains the large timber stallriser and framing to the window. When the doors are pulled back across they will introduce more subdivision to the shopfront which is generally preferred.

The application is in accordance with DES 1; DES 5; DES 9; S 25; S 28 and the NPPF.

8.2 Residential Amenity

Policy S29 of the City Plan aims to protect the amenity of residents from the effects of development. Similarly, Policies ENV 6 and ENV 7 of the UDP seek to control noise disturbance from development. Of particular relevance, paragraph 9.108 of Policy ENV 7 relates specifically to openable shopfronts and states that: 'The City Council will discourage provision of openable shop fronts that would enable noise from inside the premises to be heard outside.'

The nearest residential properties are located on the upper floors of the application site. Records also indicate the presence of further residential properties on the upper floors of the buildings on the opposite side of Berwick Street, Nos. 52 and 50-51.

Openable shopfronts will generally be resisted where internal noise can escape and cause nuisance for nearby residents. Of particular concern in this instance is the proximity of residential properties located on the upper floors of the building. The application originally proposed that the openable windows would be open between 08:00 to 23:00. This was considered unacceptable in amenity terms due to the potential for noise and disruption to nearby residential occupiers during quieter, sensitive times of the day.

In support of their application the applicant argues that Berwick Street is a busy mixed use, commercial area with a public house nearby, in close proximity to Oxford Street and cites examples in Westminster where openable shopfronts have been approved with conditions restricting opening hours of the windows and the playing of live or recorded music when windows are open. The applicant also advises that the residential units on the upper floors

are fitted with high specification glazing and to date there have been no complaints received in relation to the restaurant use.

In addition, the applicant has revised the proposal so that the openable windows would only be open until 19:00. No objections have been received to the proposal and one letter of support has been received from the landlord of the property. The applicant has submitted an acoustic report in support of the application. Noise levels within the restaurant were measured and at street level outside the restaurant. The report predicts that the noise levels are likely to marginally elevate the existing ambient noise levels at the adjacent residential properties. The City Council's Environmental Health Officer has raised no objection to this acoustic report.

The Soho Society has objected to the proposal on the grounds of noise nuisance to residential amenity. However, the Soho Society also states that if permission were granted, conditions should be imposed to ensure the openable windows are closed at 9pm and there should be no playing of amplified music when the windows are open. The revised terminal hour of 19:00 would ensure that nearby residential amenity is protected during the most sensitive hours of day when residents expect peace and quiet. In addition, it is considered appropriate to restrict the playing of live or recorded music when the windows are open in order to ensure the proposal does not result in noise nuisance when the windows are open. Subject to these conditions, it is considered that the installation of partially openable shopfronts as proposed would be unlikely to result in noise nuisance to neighbouring residents.

8.3 Transportation/Parking

The proposed works are clear of the public highway. The doors open outwards but are in the shadow of existing steps and do not extend beyond the associated railings.

8.4 Economic Considerations

No economic considerations are applicable for a development of this size.

8.5 Other UDP/Westminster Policy Considerations

None.

8.6 London Plan

This application raises no strategic issues.

8.7 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

8.8 Planning Obligations

Planning obligations are not relevant in the determination of this application.

9. BACKGROUND PAPERS

1. Application form
2. Response from Soho Society, dated 11 November 2016
3. Response from Environmental Health, dated 26 October 2016
4. Letter of from occupier of Portfolio Executive, Shaftsbury, dated 2 December 2016.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: JO PALMER BY EMAIL AT jpalme@westminster.gov.uk

DRAFT DECISION LETTER

Address: Basement And Ground Floor, 60 Berwick Street, London, W1F 8SU,
Proposal: Installation of openable bi-folding windows in the shopfront.
Reference: 16/09630/FULL
Plan Nos: 03(02)F; Environmental Noise Survey and Noise Impact Assessment Report 23418/ENS1, dated 1 September 2016.

Case Officer: Alice Dunn

Direct Tel. No. 020 7641 7957

Recommended Condition(s) and Reason(s)

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
between 08.00 and 18.00 Monday to Friday;
between 08.00 and 13.00 on Saturday; and
not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

between 08.00 and 18.00 Monday to Friday; and ,
not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 You must close the shopfront windows hereby approved between 19:00 each day and 08.00 the following morning.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of

Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 4 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the Soho Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must not play live or recorded music on your property (including amplified and non-amplified music) that is audible in the nearest property, when the shopfront is open.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.